

PRICE REDETERMINATION, (FRDI)

- (a) General. The supplies or services identified in this order are subject to price redetermination in accordance with the provisions of this article; provided that in no event shall the total final price of such items exceed the maximum price set forth in the order. Any supplies or services which are to be ordered separately under, or otherwise added to, this order and which are to be subject to price revision in accordance with the provisions of this article, shall be identified as such in a change notice to this order.
- (b) Definition of Cost. For the purpose of this article, "cost" or "costs" means allowable costs in accordance with Subpart 31.2 of the Federal Acquisition Regulations (FAR) as supplemented or modified by DEAR Subpart 931.2 if DOE funded, or DFARS Subpart 31.2 if Navy funded, in effect on the date of this order.
- (c) Submission of Data. Within 90 days after the end of the month in which the Seller has delivered the last unit of supplies and completed the services called for by those items referred to in paragraph (a) above, the Seller shall submit (i) a detailed statement of all actual costs incurred up to the end of that month in performing all work under such items, (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items, and (iii) a list of all residual inventory and an estimate of the value thereof (Bettis will determine whether to reduce the final negotiated cost by the value of the residual inventory or whether the Government will take title to the residual inventory with no reduction to the final negotiated cost for the value of the residual inventory). Seller agrees that Bettis, the Government, or any of its authorized representatives may make such examinations of Seller's accounts, records and books and may make such audit thereof as Bettis, the Government or any of its authorized representatives may require or deem necessary.
- (d) Price Redetermination. Upon submission of the data required by paragraph (c) above, the Seller and Bettis shall promptly establish the total final price in accordance with the following:
- (1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, there shall be established by negotiation the total final cost incurred or to be incurred for the supplies delivered (or services performed) and accepted by Bettis, which are subject to price redetermination under this article.
 - (2) The total final price shall be established by adjusting the total final negotiated cost by an amount for profit or loss determined as follows:

When the total final
negotiated cost is:

The adjustment for profit or loss is:

i. Equal to the total target cost

Total target profit

ii. Greater than the total target cost

Total target profit less the amount by which the total final negotiated cost exceeds the total target cost

iii. Less than the total target cost
but greater than or equal to
\$_____

Total target profit plus ____% of the amount by
which the total final negotiated cost is less than
the total target cost

When the total final
negotiated cost is:

The adjustment for profit or loss is:

iv. Less than \$_____

Total profit in (iii) above plus ____% of the
amount by which the total final negotiated cost
is less than \$_____.

(3) The total final price of the item(s) referred to in paragraph (a) above shall be evidenced by a change notice to this order signed by the Seller and Bettis. Such price shall not be subject to redetermination notwithstanding any changes in the cost of performing the order, with the following exceptions:

(i) insofar as the parties may agree in writing, prior to the determination of the total final price, (A) to exclude any specific elements of cost from the total final price and (B) to adopt a procedure covering subsequent disposition of such elements; and

(ii) to the extent any adjustment or credit is expressly permitted or required by this or any other article in this order.

(4) When the Seller fails to submit the data required by paragraph (c) above within the time required therein and it is later determined that Bettis has overpaid the Seller, the excess shall be repaid to Bettis immediately. Unless repaid within thirty days after the end of the data submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest article in FAR 52.232-17. Interest shall be computed for the period from the date data was due to the date of repayment.

(e) Lower-tier Subcontracts. No lower-tier subcontract placed under this order shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) Adjustment of Payments. Pending execution of the change notice referred to in subparagraph (d)(3) above, the Seller shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph.

The billing prices shall be the target prices set forth in this order; provided, that if at any time it appears that the then current billing prices will be substantially greater than the estimated final price in light of information provided by the Seller in accordance with provisions of subparagraph (g)(2) below, a reduction in the billing prices shall be negotiated. Any adjustment of billing prices shall be reflected in a change notice to this order, and shall not affect the determination of the total final price under paragraph (d) above. After execution of the change notice referred to in subparagraph (d) (3) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) Limitation on Payments.

(1) This paragraph (g) shall not apply after final price redetermination.

(2) Within forty-five days after the end of each quarter of the Seller's fiscal year, beginning with the quarter in which a delivery is first made (or services are first performed) and accepted by Bettis under this order, and as of the end of each subsequent quarter, the Seller shall submit to Bettis a cumulative statement setting forth:

- (i) The total order price of all supplies delivered (or services performed) and accepted by Bettis for which final prices have been established;
 - (ii) The total cost (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by Bettis for which final prices have not been established;
 - (iii) That portion of the total target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by Bettis for which prices have not been established, increased, or decreased in accordance with the incentive profit formula set forth in (d) (2) above when the amount of cost stated under (ii) above differs from the aggregate target cost of such supplies or services; and
 - (iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amount applied or to be applied to liquidate progress payments).
- (3) Notwithstanding any provision of this order authorizing greater payment, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of 2(i), (ii), and (iii) above, the Seller shall immediately refund or credit to Bettis against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this article (exclusive of any tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the "Progress Payments" article of this order, instead of direct refund thereof.
- (4) When the Seller fails to submit the quarterly statement within forty-five days after the end of each quarter and it is later determined that Bettis has overpaid the Seller, the excess shall be repaid to Bettis immediately. Unless repaid within thirty days after the end of the statement submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest article in FAR 52.232-17. Interest shall be computed for the period from the date the quarterly statement was due to the date of repayment.
- (5) The Seller shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this paragraph (g), including this subparagraph (5), modified to omit mention of Bettis and reflect the position of the Seller as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this paragraph (g), including this subparagraph (5) modified as provided in (i) above.
- (h) Termination. If this order is terminated prior to establishment of the total price, prices of supplies or services subject to price redetermination under this article shall be established pursuant to this article for (i) completed supplies accepted by Bettis, and services performed and accepted by Bettis, and (ii) in the event of a partial termination, supplies and services which are not terminated. The termination shall be otherwise accomplished pursuant to other applicable provisions of this order.

- (i) Equitable Adjustment Under Other Articles. If an equitable adjustment in order price is made under any other article of this order before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit or both. If such an adjustment is made after the total final price is established, adjustment shall be made only in the total final price.
- (j) Exclusion from Target Price and Total Final Price. Whenever any article of this order provides that the order price does not or will not include an amount for a specific purpose, such provision shall mean that neither any target price nor the total final price includes or will include any amount for such purpose.
- (k) Separate Reimbursement. The cost of performance of an obligation that any article of this order expressly provides is at Bettis expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.
- (l) Taxes. As used in the "Taxes" article of this order or any other article of this order that provides for certain taxes or duties to be included in, or excluded from, the order price, the term "order price" includes the total target price, or it is has been established, the total final price. When a provision in such article or articles requires that the order price be increased or decreased as a result of changes in the obligation of the Seller to pay or bear the burden of certain taxes or duties, such increase or decrease shall be made in the total target price or, if it has been established in the total final price, so as not to affect the Seller's profit or loss on this order.